

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

BRANDON MAGEE,

Plaintiff,

v.

SGT. DENNIS TURNER, *et al.*,

Defendants.

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CASE NO.: 1:13-CV-134 (WLS)

ORDER

Presently pending before the Court is an Order and Recommendation from United States Magistrate Judge Thomas Q. Langstaff filed September 30, 2013 (Doc. 6). Therein, Judge Langstaff recommends dismissing Defendants Cintron and Williams pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim. Judge Langstaff recommends permitting the claims against Defendants Turner and Kegler to proceed. Plaintiff did not file an objection to the Recommendation. (*See generally* Docket.)

On August 9, 2013, Plaintiff filed the instant complaint. (Doc. 1.) Therein, Plaintiff asserts that, after he was “placed on Pending Investigation” by Defendants Turner and Kegler due to “a price on his head,” he was assaulted by fellow inmate Jake Jolly around 9:00 a.m. on August 2, 2013. (*Id.* at 5.) Defendants Williams and Cintron responded to the room where Jolly was allegedly assaulting Plaintiff. (*Id.*) Plaintiff claims that Defendants Turner and Kegler returned and refused to permit Plaintiff to obtain medical attention. (*Id.*) Plaintiff alleges that he was denied medical treatment for more than 48 hours. (*Id.*)

In his Recommendation, Judge Langstaff recommends permitting the claims against Defendants Turner and Kegler to proceed because Plaintiff has alleged sufficient facts to survive a preliminary frivolity review on the basis of a deliberate indifference claim. (See Doc. 6 at 3.) However, Judge Langstaff recommends dismissing Defendants Williams and Cintron because “Plaintiff only alleges that these officers responded to the incident in question and separated the fighting inmates.” (*Id.* at 3-4.) On August 20, 2013, Judge Langstaff ordered Plaintiff to supplement his complaint with additional facts pertaining to the actions of Defendants Williams and Cintron because the allegations in his complaint were “clearly insufficient” to properly state claims against those Defendants. (Doc. 5.) Plaintiff was given 21 days to file said supplement, but failed to do so. (See *generally* Docket.) The Court agrees with Judge Langstaff and finds that Plaintiff’s claims against Defendants Williams and Cintron should be dismissed.

Accordingly, United States Magistrate Judge Thomas Q. Langstaff’s September 30, 2013 Order and Recommendation (Doc. 6) is **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the reasons stated and conclusions reached herein. Based on the foregoing, the claims against Defendants Williams and Cintron are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim. The claims against Defendants Turner and Kegler may proceed.

SO ORDERED, this 16th day of January 2014.

/s/ W. Louis Sands

W. LOUIS SANDS, JUDGE
UNITED STATES DISTRICT COURT